

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 350 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHANDAN SIZERS PVT.LTD.

Versus

CLOTEX DYE AUXI CHEM

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Appearance:

MR DEVANAND DEVNANI for Petitioner

MR KIRAN ACHARYA for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 09/04/99

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. Kiran Acharya, learned advocate for respondent.

2. On 3/3/1999 following order was passed :-

"Leave to add the prayer for interim relief.

Notice returnable on 31/3/1999. Till the returnable date, there shall be ad-interim stay of the execution of the decree dated 20/2/1998 passed by the City Civil Court, Ahmedabad in Summary Suit No. 5272/97 on condition that the petitioner deposits a further sum of Rs.1,00,000/- (Rupees one lac only) by Demand Draft in favour of the Registrar, City Civil Court, Ahmedabad in the City Civil Court, Ahmedabad on or before 30/3/1999.

R & P of the Summary Suit No. 5272/97 be called for before the returnable date."

3. Today it has been suggested that the petitioner might give bank guarantee for the balance principal amount which comes to Rs. 64,936/- (round figure Rs.65,000/-) bearing in mind the fact that Rs.1,25,000/are already deposited in the trial Court. Hence, in the facts and circumstances of the case, following order is passed :-

M.C.A. No. 607 of 1998 filed in the Ahmedabad City Civil Court will stand granted and the suit shall stand restored to file upon the petitioner furnishing bank guarantee in the sum of Rs.65,000/- to the trial Court on or before 15/6/1999. In case the petitioner fails to give bank guarantee, the restoration application shall stand dismissed.

4. In case the bank guarantee is given by the petitioner, the suit shall proceed as if conditional leave has been granted, as under :-

I. Deposit of Rs. 1,25,000/- to be treated as deposit by way of conditional leave,

II. Bank guarantee in the sum of Rs.65,000/- furnished by way of condition as aforesaid, to be treated as conditional leave having been granted to the petitioner. The suit shall, therefore, proceed further and the petitioner shall file written statement within four weeks upon furnishing of bank guarantee as aforesaid.

It will be open to the plaintiff to move an appropriate application either for withdrawal of the amount deposited or for depositing the amount with either State Bank of India or any other

nationalized banks. It will also be open to the defendant to contest such an application. Trial Court will decide the application as and when moved, in accordance with law after hearing the parties.

Rule made absolute in the aforesaid terms.

Office to send back the R & P immediately to the trial Court.

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PVR.